

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

LEWIS R. FOX,

Petitioner,

v.

CASE NO. 2:19-CV-00901
JUDGE JAMES L. GRAHAM
Magistrate Judge Kimberly A. Jolson

WARDEN, BELMONT
CORRECTIONAL INSTITUTION,

Respondent.

ORDER

Petitioner has filed a Motion to Dismiss his unexhausted claim of the denial of the effective assistance of trial counsel and request to proceed on his remaining exhausted claims. (Doc. 16).

Petitioner's Motion to Dismiss (Doc. 16) is **GRANTED**.

For the reasons previously addressed (Opinion and Order, Doc. 15), Petitioner's objections (Docs. 11, 12) are **OVERRULED**. The Report and Recommendation (Doc. 9) is **ADOPTED** and **AFFIRMED**.

Respondent's Motion to Dismiss the case without prejudice as unexhausted (Doc 5) is **DENIED**.

Respondent shall file a supplemental response in compliance with Rule 5 of the Rules Governing § 2254 Cases within thirty (30) days. Petitioner may file a reply within twenty-one (21) days thereafter.

Date: November 4, 2019

s/James L. Graham
JAMES L. GRAHAM
UNITED STATES DISTRICT JUDGE